

**UNITED STATES BANKRUPTCY APPELLATE PANEL
FOR THE EIGHTH CIRCUIT**

No: 24-6008

In re: Pro-Mark Services, Inc.

Hartford Accident and Indemnity Company

Appellant

v.

Capital Credit Union

Appellee

Appeal from U.S. Bankruptcy Court for the District of North Dakota - Fargo
(24-30167)

ORDER

On November 3, 2025, Appellee Capital Credit Union filed a motion for rehearing. The motion for rehearing is denied. This court did not overlook the bankruptcy court's statements regarding the Intercreditor Collateral Agreement ("ICA") in reversing and remanding. As explained in our decision, the bankruptcy court did not consider the provisions of the ICA to determine whether the funds in the deposit accounts were Surety Priority Collateral or Bank Priority Collateral or how the funds should be distributed pursuant to the terms of the ICA. Instead, in her ruling, the bankruptcy court focused on the GIA between Hartford and the Debtor and the requirements of attachment under the Uniform Commercial Code as adopted in North Dakota to determine Hartford's interest in the funds. Because the parties contracted with each other to vary the provisions of the UCC and establish their respective rights and priorities in the

Debtor's assets in the ICA, we believe it is the ICA that governs the determination of the interest in the funds as between Hartford and CCU.

November 6, 2025

Order Entered at the Direction of the Court:
Clerk, U.S. Bankruptcy Appellate Panel, Eighth Circuit.

/s/ Susan E. Bindler